

LEGALITY OF BITCOIN TRADING IN INDONESIA: BETWEEN DIGITAL INVESTMENT AND VIRTUAL GAMBLING

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ABSTRACT

This study examines the legality of Bitcoin trading in Indonesia within the framework of regulatory dualism, where it is simultaneously recognized as a tradable commodity by Bappebti yet prohibited as a means of payment by Bank Indonesia. The research identifies a critical gap in the absence of an integrated legal framework governing crypto assets, resulting in fragmented regulation, legal uncertainty, and limited investor protection. Using normative legal research with statute, conceptual, and comparative approaches, this study analyzes Indonesian laws alongside selected international regulatory models. The findings reveal that Bitcoin trading in Indonesia operates under a conditionally legal status, creating ambiguity in its juridical position across business law, criminal law, and Islamic law. The study further finds that while Bitcoin trading is inherently speculative, it does not fulfill the legal elements of gambling due to the presence of analytical decision-making and market-based risk, distinguishing it from pure chance-based activities. From an Islamic law perspective, Bitcoin trading falls within an ijtihādī domain, where permissibility depends on the degree of speculation, transparency, and alignment with maqāṣid al-sharī'ah principles. The novelty of this study lies in its integrative analysis combining regulatory, criminal, and Islamic legal perspectives to clarify the boundary between digital investment and virtual gambling. This study recommends regulatory harmonization, strengthened supervisory mechanisms, and enhanced legal literacy to ensure legal certainty and sustainable digital investment governance.

Keywords: *Bitcoin Trading; Digital Investment; Virtual Gambling; Legal Certainty; Regulatory Dualism.*

A. Introduction

The advancement of digital technology has instigated profound transformations in nearly every facet of human existence, encompassing the financial sector and the global economic transaction framework (Pramanik et al., 2019). This revolution is characterized by the rise of diverse financial instruments rooted in information technology that obscure the distinctions between traditional and digital economies. The advent of cryptocurrencies as digital assets operating independently of

the existing financial system is one of the most disruptive advances in this environment (Kayani & Hasan, 2024). The inaugural cryptocurrency made available to the public was Bitcoin, founded in 2009 by an unidentified individual known as Satoshi Nakamoto. Bitcoin functions as a peer-to-peer electronic payment system, enabling direct transactions between users without the necessity of intermediary financial institutions (Hossain, 2023). Blockchain technology, the underpinning of Bitcoin, ensures openness, security, and decentralization in all transactions conducted.

Throughout its evolution, Bitcoin has transitioned from an alternate medium of trade to a digital investment vehicle. The volatile value of Bitcoin, which generally appreciates over the long run, has garnered the interest of worldwide investors, encompassing both institutional and retail participants. This scenario renders Bitcoin not merely a technology invention, but also a multifaceted economic and legal occurrence. Indonesia, as a component of the global economic framework, is susceptible to the impact of cryptocurrency asset evolution. The interest in Bitcoin and other cryptocurrencies among Indonesians has markedly risen in recent years. According to data from the Commodity Futures Trading Regulatory Agency (Bappebti), the number of cryptocurrency investors in Indonesia exceeded 18 million at the conclusion of 2024, surpassing the total of stock investors in the national capital market (Hasan, 2024). The significant public engagement in cryptocurrency trading compelled the Indonesian government to create a regulated framework. The government, through the Ministry of Trade and Bappebti, is adopting a strategic stance by categorizing crypto assets as digital commodities eligible for trading on the futures market. This policy represents a pivotal advancement in the legal acknowledgment of cryptocurrency in Indonesia.

The primary regulations overseeing cryptocurrency trading are Bappebti Regulation No. 5 of 2019, which pertains to Technical Provisions for the Organization of the Physical Cryptocurrency Market on the Futures Exchange, and Bappebti Regulation No. 8 of 2021, which addresses Guidelines for the Organization of Physical Cryptocurrency Market Trading. This regulation establishes Bitcoin as a recognized trading asset subject to official oversight. Furthermore, Minister of Trade Regulation No. 99 of 2018 reinforces the legal framework for cryptocurrency trading by

designating crypto assets as a category of futures trading (Amerzan et al., 2024). Consequently, from the standpoint of commercial and commodity law, Bitcoin acquires legitimacy as a legitimate digital asset for trading within the Indonesian legal framework. The classification of Bitcoin as a commodity does not inherently confer its legality as a method of payment. Bank Indonesia persistently denies the recognition of Bitcoin as a legitimate currency or method of payment (Bimantara et al., 2025). This denial is substantiated by Bank Indonesia Regulation No. 18/40/PBI/2016, which forbids the utilization of virtual currencies within the national payment system.

This requirement aligns with Law No. 7 of 2011 about Currency, particularly Article 21, paragraph (1), which requires the utilization of the rupiah for all payment transactions within the Unitary Republic of Indonesia. Legally, Bitcoin is restricted to use as an investment commodity, rather than as a medium of exchange or payment (Siregar, 2025). This situation signifies a duality in the regulation of Bitcoin in Indonesia. Bitcoin is recognized as a commodity by trade authorities, yet prohibited as a payment method by monetary authorities. The discord in policies across governmental organizations may generate legal ambiguity for corporate entities, investors, and the general populace. This uncertainty is further complicated by the speculative characteristics of Bitcoin trading. The price of Bitcoin exhibits significant volatility and is affected by numerous non-fundamental factors, including market mood, global speculation, and information distortion. This scenario presents a significant danger of loss, particularly for individual investors with constrained digital financial literacy. Many parties contend that Bitcoin trading activities resemble digital gambling. This evaluation is predicated on factors of randomness, reliance on price fluctuations, and the restricted direct oversight of central authority. Under Indonesian criminal law, gambling is an illicit activity as stipulated in Article 303 of the Criminal Code.

Additionally, Law No. 11 of 2008 about Electronic Information and Transactions (the ITE Law) explicitly forbids gambling content in the digital realm. Article 27, paragraph (2) of the ITE Law forbids the distribution or accessibility of electronic information containing gambling material, including through digital applications or platforms. The issue emerged when Bitcoin trading occurred through

digital platforms that depended exclusively on price speculation, devoid of any genuine economic activity. This prompts legal discussions regarding the distinction between genuine investment and covert virtual gambling activities. This boundary ambiguity may result in selective criminality and legal vacuums. In addition to the criminal implications, the legal dangers associated with Bitcoin trading pertain to the absence of investor protection. Incidents of cryptocurrency exchange breaches, investment frauds, and money laundering involving digital assets indicate that consumer protection mechanisms inside the crypto ecosystem remain comparatively inadequate.

The discourse over Bitcoin is equally intricate from an Islamic law standpoint. Certain academics contend that Bitcoin trading embodies aspects of *maysir* (gambling) and *gharar* (uncertainty), particularly when conducted speculatively without a definitive intrinsic value. These aspects are forbidden in Islamic law due to their propensity to inflict injustice and injury against one party. Nonetheless, a more temperate perspective differentiates between possessing crypto assets as commodities and engaging in excessive trading speculation. This divergence in viewpoint indicates that the question of Bitcoin's legality encompasses not only legal considerations but also ethical and philosophical dimensions. The essential inquiry is whether Bitcoin trading constitutes a legally recognized form of digital investment or if it resembles virtual gambling, which is outlawed by national legislation. This inquiry is crucial in the examination of business law and technology law in the digital era. The examination of Bitcoin trading legality is crucial for fostering regulatory harmonization across governmental entities and establishing a legal framework that can adapt to advancements in financial technology (Al Qudah & Bariviera, 2026). In the absence of comprehensive legal clarification, cryptocurrency trading may lead to systemic losses and erode public confidence in the legal system. This research is to do a legal analysis of Bitcoin trading in Indonesia, assess its legal status within the national legal framework, and evaluate the legal protections available for Bitcoin trading investors. This research aims to contribute both academically and practically to the advancement of digital business law in Indonesia.

Despite the growing body of literature on cryptocurrency regulation, most existing studies tend to analyze Bitcoin either from a regulatory perspective or from an Islamic legal standpoint in isolation. There remains a significant research gap in integrating these perspectives to comprehensively examine the legality of Bitcoin trading within the Indonesian legal system. Furthermore, the distinction between speculative investment and gambling has not been sufficiently conceptualized in prior studies, leading to ambiguity in legal interpretation. This study addresses this gap by offering an integrative juridical analysis combining business law, criminal law, and Islamic law frameworks to clarify the legal boundaries of Bitcoin trading.

B. Method

This study employs normative legal research with a descriptive-analytical approach. It utilizes three primary approaches: (1) statute approach to analyze relevant legislation governing cryptocurrency; (2) conceptual approach to examine legal doctrines such as legal certainty, gambling, and speculative investment; and (3) comparative approach to evaluate regulatory frameworks in jurisdictions such as Japan, the European Union, and Malaysia. The analysis applies three methods of legal interpretation: grammatical interpretation to understand the textual meaning of statutory provisions; systematic interpretation to assess the coherence between legal norms; and teleological interpretation to evaluate the purpose and objectives of regulation, particularly in relation to investor protection and financial stability. Legal materials are selected based on relevance, authority, and recency. Primary legal materials include statutes and regulations; secondary materials consist of peer-reviewed journals and academic books; tertiary materials include legal dictionaries and encyclopedias. This study is limited to the normative analysis of Bitcoin trading legality and does not empirically assess investor behavior. A case illustration is drawn from cryptocurrency fraud and exchange hacking incidents in Indonesia to contextualize regulatory weaknesses.

This method facilitates a more contextual examination of the interpretation and application of legal norms by pertinent authorities or entities. This study exclusively utilizes secondary data, comprising primary, secondary, and tertiary legal resources. Primary legal sources encompass pertinent legislation, including the

Currency Law, the Criminal Code, the Electronic Information and Transactions Law, as well as technical regulations promulgated by Bank Indonesia and the Commodity Futures Trading Regulatory Agency (Bappebti). Secondary legal documents encompass esteemed academic journals, legal textbooks, official reports from governmental bodies, and scholarly works addressing cryptocurrency, digital business law, and economic criminal law. Concurrently, tertiary legal materials serve as supplementary resources, encompassing legal dictionaries, encyclopedias, and various reference sources. Data collecting methods were conducted through a thorough literature study and legal document examination. All legal materials were categorized according to their relevance and authority, followed by a critical analysis to achieve a thorough grasp of the legal framework regulating Bitcoin trading in Indonesia. The analysis utilized a qualitative legal methodology, incorporating logical and interpretive reasoning. This analysis concentrates on the interpretation of legal norms, the examination of criminal law elements pertaining to gambling, and the evaluation of pertinent concepts of business law and Islamic law. This approach not only delineates the relevant legal rules but also analyzes the normative and conceptual ramifications of their application within the realm of digital asset trading.

This research is augmented with a concise comparative conceptual analysis, drawing on the bitcoin regulating practices of various jurisdictions for normative reflection, to improve academic quality and worldwide relevance. This methodology is not designed to provide a comprehensive legal comparison, but rather to enhance the analysis and fortify the argument for regulatory harmonization in Indonesia.

C. Results and Discussion

This part integrates the study findings and discussion to elucidate the legal status, legal position, and forms of legal protection for Bitcoin trading activities in Indonesia. The analysis utilizes primary, secondary, and tertiary legal materials acquired through the statutory and case approaches, employing qualitative juridical analysis methodologies. This method enables researchers to evaluate both the legally established norms and the dynamics of their practical application.

The discussion commences with an exposition of normative findings concerning the regulation of Bitcoin in the Indonesian legal framework, subsequently

analyzing the legal status of Bitcoin trading as a digital economic activity, and concluding with an examination of the types and efficacy of legal protections for investors. The research findings are critically examined via the lenses of commercial law, criminal law, and Islamic law to offer a comprehensive perspective on the Bitcoin trading phenomenon. This section is structured to ensure that the results and discussion are integrated, so forming a cohesive scientific analysis.

1. Results

The Legality of Bitcoin Trading in Indonesia

The research findings demonstrate that Bitcoin has attained restricted and practical legal acknowledgment inside the Indonesian legal framework. This recognition is not absolute; it is constrained by its function and context of application. Bitcoin is not officially acknowledged as a legal tender according to Law Number 7 of 2011 regarding Currency. This regulation is supported by Bank Indonesia Regulation Number 18/40/PBI/2016, which clearly forbids the utilization of virtual currencies, including Bitcoin, as a payment method within the Republic of Indonesia (Torina, 2024). The prohibition is founded on the tenets of the nation's monetary sovereignty, stability of the payment system, and safeguarding of consumer interests. The rupiah is the exclusive legal tender; thus, any payment transaction utilizing instruments other than the rupiah is deemed unlawful. Consequently, inside the framework of the payment system, Bitcoin exists beyond the legal jurisdiction acknowledged by monetary authorities.

This study discovered that, in a distinct context—specifically as a commodity for exchange, Bitcoin acquires legal legitimacy. According to Bappebti Regulation Number 5 of 2019 about Technical Provisions for the Implementation of the Physical Market for Crypto Assets on Futures Exchanges and Bappebti Regulation Number 8 of 2021, Bitcoin is classified as a legally tradable crypto asset. This acknowledgment is reinforced by Ministry of Trade Regulation Number 99 of 2018, which categorizes crypto assets as a subject of futures trading. These regulations affirm that Bitcoin is classified as a digital commodity rather than a currency. The state is endeavoring to distinguish Bitcoin's role as a means of exchange from its role as an investment asset through this legal framework. Bitcoin trading is regulated by Bappebti through

licensing procedures, technical oversight, and security stipulations for the trading system. This discovery reveals an intrinsic duality inside the Indonesian legal framework. Bitcoin is illegal in the monetary domain, although it is permitted in the commodity trading sector. This dualism engenders a legal ambiguity that may lead to normative misunderstanding for investors, enterprises, and law enforcement organizations. This state also indicates the country's adaptable yet not wholly integrated reaction to the advancement of financial technology.

The Juridical Status of Bitcoin Trading in Indonesia

The research findings suggest that the legal position of Bitcoin trading in Indonesia is conditionally legal. Bitcoin trading is permitted provided it occurs inside the regulated and supervised framework established by Bappebti, and is not utilized as a payment method. The legality of Bitcoin trading is largely contingent upon its goal, processes, and the platforms employed. This legal designation positions Bitcoin alongside other futures commodities, including gold, oil, and foreign exchange, in the realm of derivatives trading (Dell'Erba & Vianelli, 2025). Nonetheless, Bitcoin's attributes as a blockchain-based digital asset fundamentally differentiate it from traditional commodities. The significant price volatility, decentralized structure, and dependence on digital technologies generate heightened legal and economic risks.

This research determined that the lack of targeted law governing crypto assets has led to the legal governance of Bitcoin being sectoral and fragmented. Bank Indonesia emphasizes the stability of monetary and payment systems, whereas Bappebti concentrates on futures trading. Other authorities, like the Financial Services Authority and law enforcement agencies, participate to a limited degree within their respective jurisdictions. The lack of a cohesive legislative framework has led to inadequate inter-agency coordination.

This fragmentation results in an absence of a cohesive supervisory and law enforcement framework. Investors frequently have challenges in comprehending the legal constraints around Bitcoin trading, particularly with taxation, data privacy, and dispute resolution. In practice, when disputes or losses arise, investors must still depend on basic civil law systems or consumer protection statutes that are not yet adequately attuned to the specificities of blockchain transactions. This research also

determined that institutional procedures for resolving disputes pertaining to bitcoin trading are currently unavailable. This engenders a legal void in addressing disputes that are technical and cross-jurisdictional, given that bitcoin transactions frequently entail worldwide platforms and transnational participants.

Legal Safeguards for Participants in Bitcoin Trading Investments

The research findings reveal that legal protection for Bitcoin trading investors in Indonesia exists, however it is limited and not complete. Preventive legal protection is established by Bappebti legislation mandating registration and licensing for physical bitcoin asset traders, the implementation of prudential principles, transparency of information, and the security of information technology systems. Moreover, Law Number 8 of 1999 on Consumer Protection establishes a legal framework for safeguarding investors' rights as consumers of bitcoin trading services. Investors have the right to obtain precise, transparent, and truthful information about trading risks, as well as access to a complaint procedure if they incur losses owing to the negligence of business operators.

Law Number 10 of 2011 regarding Commodity Futures Trading provides a normative foundation for investor protection, namely within the realm of futures trading overseen by Bappebti. This research found that oppressive legal protection encounters numerous constraints. Cybercrime, market manipulation, money laundering, and cryptocurrency investment fraud continue to pose significant concerns. Instances of illicit platforms and financial misappropriation indicate that law enforcement authorities continue to encounter constraints in technical rules, human resource capabilities, and digital evidence. This circumstance signifies a disparity between the evolution of bitcoin asset trading practices and the preparedness of the national legal framework.

2. Discussion

The dual regulation of Bitcoin in Indonesia can be examined through Lawrence M. Friedman's legal systems theory. Friedman posits that the efficacy of law is contingent upon the interplay of legal structure, legal substance, and legal culture (Friedman, 1969). The legal framework including Bank Indonesia and Bappebti in

Bitcoin trading reveals a lack of comprehensive policy coordination. The essence of the legislation remains dispersed among diverse sectoral laws, lacking a cohesive normative framework. Simultaneously, the legal culture inside society demonstrates a significant degree of acceptance for Bitcoin as a digital investment vehicle (Salcedo & Gupta, 2021). The substantial quantity of cryptocurrency investors indicates a socio-economic demand that remains inadequately addressed by the legal framework. The dissonance among the structure, substance, and culture of law precipitates legal doubt. This ambiguity also opposes Gustav Radbruch's idea of legal certainty, which asserts that law must ensure predictability and justice. When an economic action is sanctioned by one authority while constrained by another, the principle of legal certainty is undermined. This circumstance may adversely affect retail investors with restricted legal and financial acumen.

From a criminal law standpoint, the research findings suggest that while Bitcoin trading possesses speculative characteristics, this conduct does not inherently satisfy the conditions for gambling as delineated in Article 303 of the Criminal Code. Gambling entails a game of chance where the result is determined exclusively by luck. Engaging in Bitcoin trading, although inherently high-risk, necessitates authentic market analysis, investment methods, and trading methodologies (Marushchak et al., 2025). Consequently, the criminalization of Bitcoin trading must be executed judiciously to prevent the excessive criminalization of legitimate digital economic activities. From an Islamic legal standpoint, the trading of Bitcoin is categorized under *ijtihad*. When executed in a highly speculative manner and incorporating features of *maysir* and *gharar*, such acts may be classified as *haram*. Nonetheless, if executed as a commodities investment with a transparent method, acknowledged risks, and devoid of fraudulent elements, certain scholars permit it. This viewpoint indicates that ethical and moral considerations are essential in governing cryptocurrency legislation.

Subsequently, Jeremy Bentham's theory of utilitarianism offers the normative foundation that law ought to aim at maximizing societal welfare. In this setting, Bitcoin trading regulations should be both protective and adaptable, rather than exclusively repressive. Effective regulation may stimulate digital economic

innovation, improve financial inclusion, and concurrently safeguard the public interest. This research underscores the necessity of implementing comprehensive laws for crypto assets in Indonesia. Harmonization of policies among institutions, enhancement of digital literacy within the populace, and fortification of protection and dispute resolution processes are essential conditions for establishing legal certainty and ensuring the sustainability of the digital investment ecosystem in Indonesia (Chetty et al., 2018). A comparative overview of international regulatory approaches further reinforces the argument for harmonization in Indonesia. Japan, through the Payment Services Act (as amended in 2017 and 2020), has adopted a comprehensive licensing framework for crypto asset exchanges, treating Bitcoin as a legally recognized crypto asset while subjecting exchanges to strict anti-money laundering (AML) and consumer protection requirements under the Financial Services Agency (FSA). The European Union's Markets in Crypto-Assets (MiCA) Regulation, fully applicable from 2024, establishes a unified licensing regime across member states, providing legal certainty for issuers and service providers while mandating robust investor disclosure and capital requirements. In contrast, Malaysia through its Securities Commission has classified certain crypto assets as securities under the Capital Markets and Services Act, requiring registration of digital asset exchanges and imposing structured investor protection obligations. These jurisdictions demonstrate that integrated, cross-agency regulatory frameworks—rather than fragmented sectoral approaches—are essential to achieving legal certainty and investor protection in the crypto asset market. Indonesia would benefit significantly from adopting a similarly unified legislative approach.

A significant institutional development that directly affects the argument of regulatory fragmentation presented in this article is the transfer of supervisory authority over crypto assets from Bappebti to the *Otoritas Jasa Keuangan* (OJK / Financial Services Authority), which became effective in January 2025 pursuant to Law Number 4 of 2023 on Development and Strengthening of the Financial Sector (P2SK Law). Under this new framework, the OJK assumes regulatory and supervisory responsibility for crypto asset trading activities previously administered by Bappebti (Handayani et al., 2025). This institutional shift represents a potentially

significant step toward regulatory consolidation, as it brings crypto asset oversight under the broader financial sector regulatory architecture. However, the transfer also raises new transitional challenges: existing Bappebti regulations must be harmonized with OJK's supervisory principles, new licensing procedures must be established, and coordination with Bank Indonesia on monetary and payment system matters remains necessary. The implications of this supervisory transfer for investor protection, dispute resolution mechanisms, and the overall legal certainty of crypto asset trading in Indonesia remain an important area for ongoing regulatory monitoring and scholarly analysis (Bahtera et al., 2025).

A fundamental distinction must be drawn between speculation and gambling. Speculation involves risk-taking based on information, analysis, and market signals, whereas gambling is characterized by outcomes determined predominantly by chance (Arthur et al., 2016). Bitcoin trading, despite its volatility, involves technical analysis, market forecasting, and strategic decision-making. Therefore, it cannot be equated with gambling in a strict juridical sense. However, when trading behavior becomes purely impulsive, irrational, and detached from analytical reasoning, it may approach the characteristics of gambling. Unlike Indonesia's fragmented regulatory model, Japan adopts a centralized framework under the Financial Services Agency, ensuring coherent supervision. The European Union's MiCA regulation provides legal certainty through a unified licensing regime, reducing regulatory arbitrage. Malaysia, on the other hand, integrates crypto assets within its capital market framework, offering structured investor protection.

D. Conclusion

This study concludes that Bitcoin trading in Indonesia operates within a framework of conditional legality shaped by regulatory dualism, resulting in legal uncertainty and fragmented governance. While legally permissible as a digital commodity, its prohibition as a payment instrument creates normative inconsistency across regulatory regimes. To address these challenges, this study proposes several policy recommendations: (1) the establishment of a comprehensive and integrated crypto asset law; (2) harmonization of authority between OJK and Bank Indonesia; (3) the development of specialized dispute resolution mechanisms for digital asset

transactions; and (4) the strengthening of investor protection through enhanced supervision and digital literacy programs. For future research, empirical studies are needed to examine investor behavior, risk perception, and the effectiveness of regulatory frameworks in practice. Further interdisciplinary research integrating law, economics, and Islamic finance is also recommended to deepen the understanding of cryptocurrency within evolving digital economies. study demonstrates that the legality of Bitcoin trading in Indonesia is defined by a framework of conditional legality shaped by regulatory dualism. Bitcoin is unequivocally prohibited as a means of payment under Indonesia's monetary law regime, yet it is simultaneously recognized as a lawful digital commodity subject to trade under the commodity futures regulatory framework. This coexistence of permissive and prohibitive norms situates Bitcoin trading within a legal grey area that generates uncertainty for investors, market operators, and regulatory authorities.

From the perspective of business law, Bitcoin trading is legally acceptable only when positioned as a regulated investment activity rather than a transactional currency. However, the absence of an integrated legal framework governing crypto assets has resulted in fragmented, sector-based regulation that inadequately addresses investor protection, supervision, and dispute resolution. In criminal law terms, the study finds that Bitcoin trading does not inherently satisfy the legal elements of gambling under Article 303 of the Indonesian Criminal Code; speculative risk and price volatility alone are insufficient to justify criminal classification absent elements of pure chance or unlawful gaming structures. Accordingly, criminal law intervention must be applied selectively to avoid overcriminalization of legitimate digital economic activities.

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